IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 6760 of 1998

For Approval and Signature:

HON'BLE MR JUSTICE KS JHAVERI

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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UMESHKUMAR B JOSHI - Petitioner(s)

Versus

STATE OF GUJARAT & 1 - Respondent(s)

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Appearance :

MR RV DESAI for Petitioner No(s).: 1.

MR KL PANDYA AGP for Respondent No(s).: 1,2.

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CORAM : HON'BLE MR JUSTICE KS JHAVERI

Date : 18/07/2005

ORAL JUDGMENT

1.0 The petitioner herein has prayed for the following reliefs;

> "(A) Your Lordships may kindly be pleased to issue a writ in the nature of mandamus or any

other appropriate writ, direction or order directing the respondents to treat the present petitioner as permanent workman (work charge) and release all the benefits attached to the post of permanent workman with effect from 1985. Your Lordships is further requested to direct the respondents not to disturb the present petitioner with regard to duties performed by the present petitioner as the petitioner has approached the Hon'ble Court by way of the present petition.

(B) Your Lordships is further requested to declare and hold the action of the respondents in not releasing the benefits attached to the post of permanent workman and not making him permanent workman in spite of the fact that the nature of the work remains the same as that of regular permanent workman as unfair labour practice as defined under Schedule V of the Industrial Disputes Act, 1947 and further to declare and hold the action of the respondent as violative of the provisions of Constitution of India and different Labour Laws.

(C) Pending admission, hearing and final disposal of this petition Your Lordships is most humbly requested to direct the respondent to treat the present petitioner as permanent workman (work charge) with effect from 01.08.1998 by way of ad-interim relief.

(D) .....”

2.0 The petitioner was working as a Rojamdar with the respondent State. It is the case of the petitioner that the petitioner was not paid the benefits of a permanent workman though he had put in more than 17 years of service with the petitioner. The petitioner made several representations to the respondent authorities for considering his case. However, since no heed was paid to

the representations made by the petitioner, the petitioner has approached this Court by way of this petition.

3.0 I have heard learned counsel for the parties and perused the documents placed on record. Having gone through the affidavit-in-reply filed on behalf of the respondents, it is amply clear that as per the Government Resolution, all the admissible benefits have already been released to the petitioner, and therefore, the petitioner is not entitled for extra benefits as admissible to work charged employees.

3.1 Moreover, the service conditions of work charged employees are covered under the Bombay Civil Service Rules, whereas the Rojamdars are covered under different recruitment rules. The claim of work charged employees is required to be established before the appropriate authority by leading appropriate evidence. This Court under Article 226 of the Constitution of India will not be in a position to grant the reliefs claimed by the petitioner herein. Hence, the petition deserves to be dismissed.

4.0 The petition is, accordingly, dismissed. Rule is discharged with no order as to costs.

(K. S. JHAVERI, J.)

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